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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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EXAMINER

WM02/0424

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ART UNIT

PAPER NUMBER

2661

DATE MAILED:

04/24/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/378,201

Applicant(s)

HO ET AL.

Examiner

Shick Horn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 August 1999 and 21 November 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19 is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

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DETAILED ACTION

Specification

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 112

2. Claims 10-11 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 10 line 2 which recite "a plurality of IP packets" is not clear as to whether it is reciting --said plurality of IP packets--- as in claim 1 lines 5-6. In claim 16 line 2 which recite "the corresponding circuit" lacks clear antecedent basis because no corresponding circuit have been previously recited in the claims and therefore the limitation is not clearly understood.

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Claim 11 is are rejected under 35 U.S.C. 112, second paragraph because it depends from rejected claim 10.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

4. Claims 1, 6-7, 10-11, and 17-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Allen, Jr. et al.

Allen, Jr. et al. disclose all the subject matter now claimed. Note col. 6 lines 43-50 which recite the method for transporting voice data from an originating location to a destination whereby the transporting is enabled by emulating a circuit by employing a circuit emulation service CES wherein the voice data is converted to ATM cells utilizing ATM adaptation layer 1 AAL1 or ATM adaptation layer 2 AAL2 and col. 16 line 55 to col. 17 line 8 which recite that the invention also applies to Internet services providers whereby the Internet user typically

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accesses the Internet by connecting to the Internet service provider via a dial up modem; however, unlike a voice connection, a modem connection carries bursty data with Internet Protocol IP packets clearly anticipate the method including the step of configuring a circuit emulation service CES over an internet protocol IP network and the step of transporting the IP packets from a local interworking function to a remote interworking function according to the CES as in claims 1, 17, and 18.

Col. 10 line 64 to col. 11 line 5 which recite the AAL1 or AAL2 allow the choice of carrying voice trunks through an ATM network as constant bit rate traffic or variable bit rate traffic and that if voice is sent as constant bit rate traffic, then ATM Forum's

structured DS1 nx64 Kbps circulation emulation service using AAL1 is employed and if voice is sent as real time variable bit rate traffic, then AAL2 as the ATM adaptation layer is employed, thus taking advantage of the many efficiency and performance enhancing features supported by AAL2 clearly anticipate the step of encapsulating data received at a constant bit rate at the local interworking function into IP packets configured according to the CES as in claims 1 and 18. Col. 6 lines 3-22 which recite the use of a centralized control and signaling interworking function

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CS-IWF device for performing call control functions and using AAL2 to support silence suppression and/or voice compression clearly anticipate exchanging CES control protocol information between the local and remote interworking function as in claim 6 and including the compression option as in claim 7. Col. 14 lines 19-40 which recite the step of buffering to accommodate cell delay variation introduced by the network and cell construction delay clearly anticipate the step of buffering IP packets for at least as long as the maximum delay variation as in claims 10-11.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

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claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 2, 8-9 and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen, Jr. et al as applied to claim 1 above, and further in view of Rogers et al.

Allen, Jr. et al. did not recite attaching a CES header comprising a version number to each IP packet as in claims 8-9, the circuit header comprising at least a circuit identification, a flag field, sequence number, octet padding values and a data field as in claims 12-13, and the maximum delay variation as in claim 2.

Rogers et al. teach that it is known to provide the step of traffic shaping for altering the traffic characteristics of a stream of cells on a VCC or a VPC to achieve a desired modification of those traffic characteristics, in order to

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achieve better network efficiency whilst meeting the QoS objectives or to ensure conformance at a subsequent interface whereby traffic shaping maintains cell sequence integrity on the connection as set forth at col. 3 lines 31-40 and FIG. 2 which shows the connection parameters written into the cell header in the field of digital and multiplex communications clearly anticipate the CES header comprising the version number to each IP packet, the circuit identification, the flag field, sequence number, octet padding values and data field as in claims 8-9 and 12-13. Col. 1 lines 48-57 which recite means for providing bounded packet delay variation (commonly referred to as cell delay variation) which clearly anticipate the maximum delay variation as in claim 2.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the CES header comprising the version number to each IP packet, the circuit identification, the flag field, sequence number, octet padding values and data field as taught by Rogers et al. to the system of Allen, Jr. et al. because Rogers et al. teach the desirable advantage of achieving better network efficiency whilst meeting the QoS objectives and ensure conformance at a subsequent interface and said better network efficiency being desirable to achieve efficient system operation in Allen, Jr. et al.

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Allowable Subject Matter

7. Claims 3-5 and 14-16 would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

8. Claim 19 is allowed.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Pasternak et al. disclose a wireless ATM network with high quality of service scheduling.

Nattkemper et al. disclose a distributed telecommunications switching system and method.

10. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

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(703) 308-9051, (for formal communications intended for entry)

Or:

(703) 308-5403, (for informal or draft communications, please label "PROPOSED" or "DRAFT")

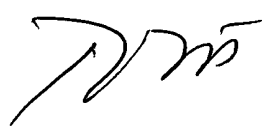
Hand-delivered responses should be brought to Crystal Park II, 2021 Crystal Drive, Arlington. VA., Sixth Floor (Receptionist (703) 305-4700).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shick Hom whose telephone number is (703) 305-4742.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-4750.

SH

April 19, 2001


DANG TON
PRIMARY EXAMINER